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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,351	03/19/2001	Sidney T. Smith	CRTS-5679 (1417A P 450)	3473

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EXAMINER

PASCUA, JES F

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 04/24/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/813,351

Applicant(s)

SMITH ET AL.

Examiner

Jes F. Pascua

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 is/are allowed.
- 6) ☒ Claim(s) 1-15, 17-23 and 25-28 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16. 6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/17/03 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the end panel in a position "folded on top of one of the plurality of panels" (claims 5 and 19) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Fig. 8 does not show the end panels 20, 22 fold over on top of the panel 12. Fig. 8 only shows end panels extending generally perpendicular from the panels.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 6-11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al. '548. See Figs. 8-10.

Cook et al. '548 discloses the claimed invention except for the interior volume of the flexible container being at least about 200 liters. It would have been an obvious matter of design choice to alter the panels of the Cook et al. '548 container such that the interior volume is at least about 200 liters, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

5. Claims 1-4, 6-9, 14, 17, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calhoun.

Calhoun discloses the claimed invention except for the interior volume of the flexible container being at least about 200 liters. It would have been an obvious matter of design choice to alter the panels of the Calhoun container such that the interior volume is at least about 200 liters, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as

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being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

6. Claims 1, 2, 6-10, 13-15, 17 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaFleur '335.

LaFleur '335 discloses the claimed invention except for the interior volume of the flexible container being at least about 200 liters. It would have been an obvious matter of design choice to alter the panels of the LaFleur '335 container such that the interior volume is at least about 200 liters, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claim 15, LaFleur '335 discloses the claimed invention except for the port 34 having a closure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the port of LaFleur '335 with a closure since it was known in the art that port closures in bulk bags prevent the contents from escaping the bag during transportation.

7. Claims 21-23, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al. '121.

Sasaki et al. '121 discloses the claimed invention except for the interior volume of the flexible container being at least about 200 liters. It would have been an obvious

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matter of design choice to alter the panels of the Sasaki et al. '121 container such that the interior volume is at least about 200 liters, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

8. Claims 1-10, 12, 14, 15, 17-20, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al. '121 in view of Olson '818.

Sasaki et al. '121 discloses the claimed invention except for the interior volume of the flexible container being at least about 200 liters. It would have been an obvious matter of design choice to alter the panels of the Sasaki et al. '121 container such that the interior volume is at least about 200 liters, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Sasaki et al. '121 discloses the claimed invention except for the sleeve-forming panels having end edges. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sleeve-forming panels of Sasaki et al. '121 with end edges since it was known in the art that end edges (e.g. fold lines) facilitate the formation of flexible containers into their desired shape.

Regarding claims 5 and 19, Sasaki et al. '121 discloses the claimed device, as discussed above, except for the end panel being folded on top of one of the plurality of

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panels when the flexible container is in a folded condition. Olson '818 discloses that it is known in the art to fold the end panels of an analogous flexible container on top of one of the plurality of panels when the flexible container is in a folded condition. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fold the end panel of Sasaki et al. '121 on top of one of the plurality of panels when the flexible container is in a folded condition; taught to be desirable by Olson '818 in order to permit the flexible container to be fully filled while placed within a box.

Allowable Subject Matter

9. Claim 24 is allowed.

10. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to claims 1-115, 17-20 and 25-27 have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's arguments filed 1/13/03 have been fully considered but they are not persuasive. Regarding applicant's argument that Sasaki et al. does not disclose or suggest the range of applicant's angle as claimed in claim 21, Sasaki et al. discloses

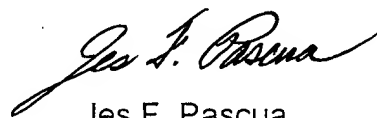
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angle n1, n2 having a preferred range of 40-50 degrees. This results in the angle between seal portions 9, 10 being in the range of 130-140 degrees.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 703-308-1153. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.



Jes F. Pascua
Primary Examiner
Art Unit 3727

JFP
April 23, 2003